

Message Text

CONFIDENTIAL

PAGE 01 STATE 240790

44

ORIGIN EUR-12

INFO OCT-01 ISO-00 DHA-02 L-03 H-02 /020 R

DRAFTED BY EUR/WE:JALIMPRECHT

APPROVED BY EUR/WE:REBARBOUR

D/HA - MR. WILSON

L/HR - MR. RUNYON

L/PM - MR. BOREK

H - MS. SWIFT

EUR - MR. GOOTT

----- 034639

P 281710Z SEP 76

FM SECSTATE WASHDC

TO AMEMBASSY MADRID PRIORITY

C O N F I D E N T I A L STATE 240790

E.O. 11652: GDS

TAGS: SHUM, MASS, SP

SUBJECT: CONGRESSIONAL REQUEST FOR HUMAN RIGHTS INFORMATION

REF: STATE 231122

1. SENATOR HUMPHREY AS CHAIRMAN OF THE FOREIGN ASSISTANCE SUBCOMMITTEE HAS ASKED THE DEPARTMENT TO PROVIDE THE SUBCOMMITTEE STAFF BASIC HUMAN RIGHTS DATA AND INFORMATION ON 17 COUNTRIES, INCLUDING SPAIN, ON A CONFIDENTIAL BASIS FOR THE STAFF'S USE IN PREPARING LEGISLATION. IN RESPONSE TO THIS REQUEST, THE SECRETARY HAS AUTHORIZED US TO PROVIDE THE SUBCOMMITTEE WITH THIS BASIC DATA AND INFORMATION USING AS A BASIS THEREFOR UPDATED DRAFTS ON HUMAN RIGHTS OBSERVANCE REPORTS ON THE 17 COUNTRIES WHICH THE DEPARTMENT HAS BEEN PREPARING FOR POSSIBLE SUBMISSION EARLY NEXT YEAR IN ACCORDANCE WITH SECTION 502B (B) OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED BY THE INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORT CONTROL ACT OF 1976. (THE TEXT AND A DISCUSSION OF THE RELEVANT CONFIDENTIAL

CONFIDENTIAL

PAGE 02 STATE 240790

LEGISLATIVE PROVISIONS WERE TRANSMITTED BY REFTEL.) ALL

INFORMATION WILL BE PROVIDED ON A CLASSIFIED BASIS, AS SENATOR HUMPHREY REQUESTED AND THE SECRETARY HAS DIRECTED, ALTHOUGH PUBLIC DISCLOSURE CANNOT BE PRECLUDED.

2. WE HAVE INFORMED THE SUBCOMMITTEE THAT THE REQUESTED INFORMATION IS BEING COLLECTED AND PREPARED FOR TURNOVER IN TWO WEEKS, I.E., OCTOBER 8. ACCORDINGLY, CORRECTION, UPDATING INFORMATION, COMMENTS AND EMBASSY CLEARANCE ON THE LATEST, PARTIALLY CLEARED, DRAFT OF THE HUMAN RIGHTS OBSERVANCE ON SPAIN, TRANSMITTED BELOW, ARE NEEDED URGENTLY, BY COB WASHINGTON SEPTEMBER 30 LATEST, TO ALLOW TIME FOR COMPLETION OF THE CLEARANCE PROCESS, TYPING AND SUBMISSION TO CONGRESS BY THE DEADLINE INDICATED.

3. TEXT OF DRAFT HUMAN RIGHTS REPORT FOR SPAIN FOLLOWS.

QUOTE: I. POLITICAL SITUATION

UNDER JUAN CARLOS I, WHO BECAME KING WHEN CHIEF OF STATE FRANCO DIED IN NOVEMBER 1975, SPAIN HAS BEEN MOVING TOWARD LIBERALIZATION AND DEMOCRATIC REFORM. THE NEW LAWS GUARANTEEING FREEDOM OF ASSEMBLY AND POLITICAL ACTIVITY HAVE BEEN APPROVED AND OTHER REFORMS ARE PLANNED. POLITICAL PARTIES AND OTHER OPPOSITION GROUPS ARE HOLDING PUBLIC MEETINGS, PUBLISHING THEIR VIEWS AND OPENLY ORGANIZING IN OTHER WAYS TO PARTICIPATE IN THE PROMISED DEMOCRATIC SYSTEM. FREE ELECTIONS TO A TWO HOUSE PARLIAMENT ARE PROMISED BEFORE JUNE 1977.

MORE THAN 6,500 PRISONERS WERE RELEASED AS A RESULT OF THE ROYAL PARDON ISSUED WITHIN ONE WEEK OF FRANCO'S DEATH, AND ALL POLITICAL PRISONERS NOT CONVICTED OF VIOLENT CRIMES WERE BENEFICIARIES OF A FULL AMNESTY GRANTED BY THE KING IN JULY 1976. TOTAL PRISON POPULATION AT THE END OF 1975 WAS 8,400 REPORTEDLY ONE OF THE LOWEST PER CAPITA IN THE WORLD, AND IT IS TODAY EVEN LOWER.

II. LEGAL SITUATION

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 STATE 240790

THE GOVERNMENT HAS ALREADY PROMULGATED MAJOR LEGISLATION GUARANTEEING FREEDOM OF ASSEMBLY AND FREEDOM OF ASSOCIATION THESE LAWS IMPLEMENT CERTAIN CIVIL RIGHTS INSCRIBED IN THE SPANISH BILL OF RIGHTS, AND PENAL CODE REFORM ENACTED IN JULY 1976 PROTECTS THE EXERCISE OF THESE BASIC RIGHTS. JUDICIAL SAFEGUARDS, WHICH WERE RESTRICTED BY THE AUGUST 1975 DECREE LAW ON TERRORISM, HAVE BEEN RESTORED. THE GOVERNMENT ALSO HAS UNDER STUDY A PROPOSAL WHICH WOULD

ELIMINATE THE OVERLAPPING OF MILITARY, ECCLESIASTICAL AND JUDICIAL JURISDICTIONS IN ORDER TO GUARANTEE DUE PROCESS IN CIVIL COURTS FOR NON-MILITARY CRIMES. SOME OF THESE

; CONFIDENTIAL
REFORMS WILL BE LEFT TO THE NEW DEMOCRATICALLY-ELECTED GOVERNMENT SCHEDULED TO TAKE OFFICE AFTER ELECTIONS WHICH ARE CURRENTLY PLANNED PRIOR TO JUNE 1977. A REFERENDUM ON THE FORM OF THE NEW PARLIAMENT IS SCHEDULED FOR LATE FALL 1976. PRESENT PLANS CALL FOR REPLACEMENT OF THE CURRENT CORPORATE-STYLE UNICAMERAL LEGISLATURE WITH A BICAMERAL BODY CHOSEN IN FREE AND SECRET ELECTIONS UNDER UNIVERSAL SUFFRAGE.

III. OBSERVANCE OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS

A. INTEGRITY OF THE PERSON

ARTICLE 3: OBSERVANCE OF THE RIGHT TO LIFE, LIBERTY AND SECURITY OF PERSON HAS GREATLY IMPROVED.

ARTICLE 5: THERE WERE SERIOUS ALLEGATIONS AND REPORTS OF TORTURE OF PRISONERS UNDER THE PREVIOUS GOVERNMENT. HOWEVER, EVEN WITH THE RELEASE OF OVER 6,500 PRISONERS, INCLUDING MORE THAN 700 POLITICAL PRISONERS, THERE HAVE BEEN FEW ALLEGATIONS BY FORMER PRISON INMATES OF MISTREATMENT. POLICE HAVE BEEN CONVICTED AND SENTENCED BY THE COURTS FOR MISTREATMENT OF PRISONERS.

ARTICLE 8: ACCESS TO LEGAL REMEDIES TO OBTAIN REDRESS FOR VIOLATION OF RIGHTS IS GUARANTEED BY LAW; IN PRACTICE, THE COURTS HAVE SOUGHT TO UPHOLD THIS RIGHT.

CONFIDENTIAL

CONFIDENTIAL

PAGE 04 STATE 240790

ARTICLE 9: ARBITRARY ARREST AND DETENTION HAS BEEN LARGELY AVOIDED BY THE PRESENT GOVERNMENT. UNAUTHORIZED DEMONSTRATORS HAVE BEEN TEMPORARILY HELD BUT RELEASED WITHIN A MATTER OF HOURS. GOVERNMENT INTENTIONS IN THIS RESPECT ARE EVIDENT IN THE FEBRUARY 1976 RESTORATION OF JUDICIAL SAFEGUARDS WHICH HAD BEEN DILUTED BY THE AUGUST 1975 LAW ON TERRORISM.

ARTICLE 10: PROCEDURAL SAFEGUARDS ARE COMPARABLE TO ANGLO-SAXON PRACTICE, E.G. ONLY CONFESSIONS MADE BEFORE A JUDGE ARE ADMISSIBLE IN CRIMINAL TRIALS.

ARTICLE 11: SPAIN'S JUDGES ARE PROMOTED ON A STRICT MERIT SYSTEM AND ENJOY THE PROTECTION OF TENURE, GIVING THEM CONSIDERABLE INDEPENDENCE. GOVERNMENT PROSECUTIONS,

EVEN IN POLITICAL OFFENSES, OFTEN FAIL IN COURT. THE REAL PROBLEM HAS STEMMED FROM THE OVERLAP OF MILITARY, CIVIL, AND ECCLESIASTICAL JURISDICTIONS. THE GOVERNMENT HAS PROMISED TO ELIMINATE "SPECIAL JURISDICTIONS" AND TO MAKE CIVIL JURISDICTION TOTALLY INDEPENDENT OF MILITARY JURISDICTION.

B. OTHER IMPORTANT FREEDOMS

THE NEW GOVERNMENT DOES NOT CONDONE DISCRIMINATION AND THERE IS NO INDICATION THAT IT IS PRACTICED TO ANY SERIOUS DEGREE. WHILE THERE ARE MOVEMENTS PROMOTING REGIONAL AUTONOMY OR EVEN SEPARATISM FOR THE BASQUE AND CATALAN AREAS, THE NEW GOVERNMENT DOES NOT PRACTICE SYSTEMATIC NATIONAL DISCRIMINATION AGAINST INDIVIDUAL BASQUES, CATALANS OR OTHER REGIONAL MINORITIES AND HAS BEGUN TO DECENTRALIZE ADMINISTRATIVE AUTHORITY. THERE IS NO RESTRICTION ON THE MOVEMENT OF SPANIARDS TO CHANGE RESIDENCE OR JOBS. FREEDOM OF OPPORTUNITY AND MOVEMENT HAS BEEN A KEY FACTOR IN THE FAST INDUSTRIAL DEVELOPMENT OF SPAIN IN THE PAST DECADE.

FREEDOM OF THOUGHT AND RELIGION EXIST. THE CATHOLIC CHURCH, WHICH IS CONSTITUTIONALLY THE STATE RELIGION, WAS PARTLY RESPONSIBLE FOR THE ADOPTION OF THE 1967 RELIGIOUS LIBERTY LAW. THE FIRST OF A SERIES OF ACCORDS WITH THE

CONFIDENTIAL

PAGE 05 STATE 240790

VATICAN WHICH WILL INCREASE THE SEPARATION OF CHURCH AND STATE AND HARMONIZE RELATIONS BETWEEN SPAIN AND THE VATICAN WAS SIGNED IN JULY, 1976. NON-CATHOLIC SECTS OPERATE OPENLY IN SPAIN AND HAVE NOT BEEN HARASSED BY THE GOVERNMENT.

THERE HAS BEEN A GREAT INCREASE IN FREEDOM OF THE PRESS IN THE PAST YEAR. SINCE NOVEMBER 1975 SPANISH PUBLICATIONS HAVE BECOME MORE OUTSPOKEN (EVEN BEFORE NOVEMBER DIRECT CRITICISM OF THE GOVERNMENT WAS FAIRLY COMMON). IN ADDITION THE GOVERNMENT HAS PERMITTED RADIO AND TELEVISION BROADCAST COVERAGE OF OPPOSITION POLITICAL LEADERS.

THE OLD PENAL CODE ALLOWED THE GOVERNMENT TO TAKE PRACTICALLY ANY ACTION TO CONTROL THE COLLECTIVE ACTIVITIES OF GROUPS OF PEOPLE NUMBERING 20 OR MORE PERSONS, BUT THESE PROVISIONS HAVE BEEN REVISED BY THE NEW LAWS ON ASSEMBLY AND ASSOCIATION.

IV. OTHER HUMAN RIGHTS REPORTING

AMNESTY INTERNATIONAL'S 1974-1975 ANNUAL REPORT ADDRESSED

WIDE RANGE OF HUMAN RIGHTS PROBLEMS IN SPAIN. THE ORGANIZATION HAD 450 "ADOPTED" POLITICAL PRISONERS. THE AMNESTY INTERNATIONAL 1974 REPORT ON TORTURE STATED THAT "DOCUMENTATION OF ALLEGED TORTURE IN SPAIN COVERS -- WITH FEW EXCEPTIONS -- THE WHOLE OF THE PAST DECADE".

AMNESTY INVESTIGATED ALLEGATIONS OF TORTURE OF BASQUE SEPARATISTS AND ITS REPORT ON AN INTERNATIONAL MISSION TO SPAIN PUBLISHED IN SEPTEMBER 1975 REFERRED TO "THE DELIBERATE AND SYSTEMATIC USE OF TORTURE".

FREEDOM HOUSE LISTS SPAIN AS "PARTIALLY FREE". IT SHOULD BE NOTED THAT THESE REPORTS WERE ISSUED PRIOR TO THE DEATH OF FRANCO AND THE INSTITUTION OF THE NEW GOVERNMENT. IN JULY, AMNESTY INTERNATIONAL TOOK NOTE OF THE NEW GOVERNMENT'S RECENT AMNESTY DECREE.

UNQUOTE.
KISSINGER
CONFIDENTIAL

CONFIDENTIAL

PAGE 06 STATE 240790

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: POLICIES, HUMAN RIGHTS, ECONOMIC ASSISTANCE, MILITARY ASSISTANCE, CENTRAL LEGISLATURE, INFORMATION CONTROL
Control Number: n/a
Copy: SINGLE
Draft Date: 28 SEP 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: coburnhl
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE240790
Document Source: CORE
Document Unique ID: 00
Drafter: JALIMPRECHT
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760365-1264
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760911/aaaaajcd.tel
Line Count: 248
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 76 STATE 231122
Review Action: RELEASED, APPROVED
Review Authority: coburnhl
Review Comment: n/a
Review Content Flags:
Review Date: 05 MAY 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <05 MAY 2004 by MartinML>; APPROVED <02 SEP 2004 by coburnhl>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: CONGRESSIONAL REQUEST FOR HUMAN RIGHTS INFORMATION
TAGS: SHUM, MASS, SP, US
To: MADRID
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006